



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

STRATFORD SCHOOL DISTRICT and LEWIS
ALLIN, Member of Stratford School Board

Petitioners

and

STRATFORD TEACHERS ASSOCIATION,
NEA-NEW HAMPSHIRE

CASE NO. T-0368

DECISION NO. 85-93

ORDER DENYING MOTION

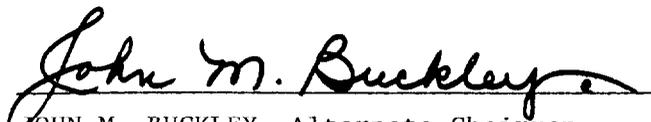
FOR REHEARING

On October 24, 1985, PELRB entered into a unanimous decision whereby it held that the "statutorily imposed" obligation to bargain in good faith extends to the process of securing ratification of a tentative agreement; that in this particular case, the collective bargaining agreement between the parties imposed this obligation explicitly; and, despite the overwhelming defeat of the warrant article, ORDERED the School Board to convene a special school district meeting as soon as reasonably possible to reconsider the article and the School Board, as a board, to make a good faith effort to secure ratification of the tentative agreement.

Counsel for the District filed for reconsideration alleging denial of due process in relation to school board members other than Lewis Allin; certain facts and actions at the District Meeting; and, jurisdiction in regard to RSA 197:3, the calling of special school district meetings. Counsel further requested that PELRB Decision 85-85 be stayed pending final resolution of fact-finding scheduled for some time in December.

After considering all evidence presented at the September 19, 1985 hearing and the request for reconsideration, PELRB reaffirms its original decision and orders that the motion be and same hereby is DENIED.

Signed this 10th day of December, 1985.


JOHN M. BUCKLEY, Alternate Chairman

By unanimous vote. Chairman Buckley, Members, Russell F. Hilliard and Seymour Osman present and voting. Also present, Executive Director, Evelyn C. LeBrun

further alleged that PELRB erred in failing to restore the status quo ante; erred in failing to find reduction in hours worked as a mandatory subject of bargaining concluding only that the "impact" of such a decision was, and that the PELRB erred in deferring to an arbitration award which is "repugnant to the statute".

On August 21, 1985, the PELRB issued an order granting a rehearing in the matter, limiting the rehearing to "alleged errors in the April 2, 1985 decision". The rehearing was held at the Board's office in Concord, New Hampshire on October 10, 1985 with all parties represented.

ARGUMENTS AT REHEARING

The Association argued that the District had only recently re-negotiated the per diem rate for any extra days the coordinators would work and then turned around and changed the number of extra hours. (The contract was silent as to the number of extra days the coordinators would work.) This action, argued the Association, was contrary to the decision of the Supreme Court in Appeal of White Mountains Regional School Board (83-374) and even though the contract is silent, the Association did not waive its legal right to bargain for "hours and wages". The decision to have coordinators is a management right, agreed the Association, but the District must negotiate hours and wages in advance.

The District argued that the arbitrator had been over this ground (as provided for in the contract) and concluded there was no breach of the contract. The District further argued that management has the right to decide "the number and direction" of its personnel and must therefore have the right to decide how many hours are needed in this case, similar to overtime hours in private industry where management does have the right to decide overtime needs on a unilateral basis.

RULINGS OF LAW

The PELRB is not persuaded that extra days beyond the school term are covered by the mandate of the Act to negotiate "hours and wages". Rather, we see the management as having the right to decide the "number" of its personnel as giving them the right in this case to set the number of days of work which are needed. The rate of pay per day has been negotiated and is fixed and agreed upon and this satisfies the negotiation requirements under the Act.

DECISION

The PELRB decision of April 2, 1985 (No. 85-25) is hereby reaffirmed.



ROBERT E. CRAIG, CHAIRMAN

Signed this 10th day of December, 1985.

By unanimous vote. Chairman Robert Craig presiding. Members Seymour Osman, Richard Roulx, Russell Hilliard and James Anderson present and voting. Also present, Evelyn C. LeBrun, Executive Director.